

REMARKS

Claims 18-20, 30-44 and 51-56 are pending. Claims 1-17, 21-29 and 45-50 have been withdrawn. Claims 38 and 52 have been canceled. Claims 18, 30, 34, 51 and 55 have been amended.

REJECTIONS UNDER 35 U.S.C. §102(b)

Claims 18-20, 30-36 and 42 stand rejected under 35 U.S.C. Sec. 102(b) as being anticipated by U.S. Patent No. 5,876,373 to Giba et al. (hereinafter "Giba"). Claims 34, 37, 39-41 and 43 – 44 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,478,793 to Cosman et. al. (hereinafter "Cosman"). Claims 51-53 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,120,520 to Saadat et al. (hereinafter "Saadat"). Claims 55-56 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,520,927 to Unsworth (hereinafter "Unsworth"). It is respectfully submitted that the amendments submitted herewith overcome the Examiner's rejections.

Applicants state that the structure of the devices disclosed in Giba, Cosman, Saadat and Unsworth are fundamentally different than that of the present disclosure as none of them apply mechanical energy to the medical device via an actuator that enables tissue penetration in both an axial and rotational direction. Moreover, none of the cited prior art of record disclose a device that has at least two effectors that are operatively connected to the actuator in order to direct the movement of the penetrator. The single effector (4) cited by the Examiner in Unsworth is actually just the back part of the needle that is connected to the distal tip of needle 4a. *See* Fig. 2 and col. 7, line 62 to col. 8, line 3. As such, it is not similar to the effectors as in the present claims. The devices of the present application are therefore clearly distinguishable from the prior art of record and reconsideration is respectfully requested based on the present claims.

REJECTIONS UNDER 35 U.S.C. §103

Claim 54 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Saadat as applied to claim 51 above, in view of U.S. Patent No. 6,702,790 to Ross et al. (hereinafter "Ross"). Because the Saadat reference has been distinguished and Ross does not disclose a needle that is energized with mechanical energy, Applicants request that this rejection be withdrawn in view of the present remarks and amendments.

Based on the above amendments and remarks, Applicants submit that the application is now in condition for allowance. If any further issues are yet to be resolved to advance the prosecution of this patent application to issue, the Examiner is asked to contact the undersigned counsel.

Reconsideration and allowance are respectfully requested.

Respectfully submitted,

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